

# HOUSE BILL No. 1291

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 24-4-20; IC 32-30-7-1; IC 35-45-4-3; IC 35-51-24-1.

**Synopsis:** Adult oriented businesses. Defines "adult oriented business". Prohibits employment of a person less than 21 years of age on the premises of an adult oriented business. Provides that the operator of an adult oriented business commits a Class B infraction if an employee is intoxicated or under the influence of a controlled substance while on the premises of the adult oriented business. Specifies that an adult oriented business that repeatedly violates certain requirements is an indecent nuisance and is subject to abatement in the same manner as other indecent nuisances. Increases the penalty for patronizing a prostitute to a Level 6 felony if the offense is committed on the premises of an adult oriented business.

**Effective:** July 1, 2014.

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January 15, 2014, read first time and referred to Committee on Courts and Criminal Code.

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Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

## HOUSE BILL No. 1291

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 24-4-20 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2014]:

4 **Chapter 20. Adult Oriented Businesses**

5 **Sec. 1. The following definitions apply throughout this chapter:**

6 (1) "Adult cabaret" means a night club, bar, restaurant, or  
7 other commercial establishment, regardless of whether  
8 alcoholic beverages are served, that regularly features  
9 persons who appear seminude.

10 (2) "Adult oriented business" means an adult cabaret, a  
11 seminude model studio, or a sexual encounter center.

12 (3) "Employ", "employment", or "employee" refers to any  
13 person who performs any service on the premises of an adult  
14 oriented business, on a full-time, part-time, or contract basis,  
15 whether or not the person is denominated as an employee,  
16 independent contractor, agent, lessee, or otherwise. The term



1 does not include a person exclusively on the premises for  
 2 repair or maintenance of the premises or for the delivery of  
 3 goods to the premises.

4 (4) "Operator" means any person on the premises of an adult  
 5 oriented business who causes the business to function, puts or  
 6 keeps in operation the business, or is authorized to manage  
 7 the business or exercise overall operational control of the  
 8 business premises. A person may operate or cause an adult  
 9 oriented business to be operated even if the person is not an  
 10 owner, part owner, or licensee of the business.

11 (5) "Seminude" or "state of seminudity" means the showing  
 12 of the female breast below a horizontal line across the top of  
 13 the areola and extending across the width of the breast at this  
 14 point, or the showing of the male or female buttocks. The  
 15 term includes showing the lower part of the human female  
 16 breast, but does not include any part of the cleavage of the  
 17 female breasts exhibited by a bikini, dress, blouse, shirt,  
 18 leotard, or similar wearing apparel, if the areola is not  
 19 exposed in whole or in part.

20 (6) "Seminude model studio" means a place where persons  
 21 regularly appear in a state of seminudity for money or any  
 22 form of consideration in order to be observed, sketched,  
 23 drawn, painted, sculptured, photographed, or similarly  
 24 depicted by other persons. The term does not apply to any  
 25 place where persons appearing in a state of seminudity do so  
 26 in a modeling class operated:

27 (A) by a college, junior college, or university supported  
 28 entirely or partly by taxation;

29 (B) by a private college or university that maintains and  
 30 operates educational programs in which credits are  
 31 transferable to a college, junior college, or university  
 32 supported entirely or partly by taxation; or

33 (C) in a structure:

34 (i) that has no sign visible from the exterior of the  
 35 structure and no other advertising that indicates a  
 36 seminude person is available for viewing; and

37 (ii) where, in order to participate in a class, a student  
 38 must enroll at least three (3) days in advance of the class.

39 (7) "Sexual encounter center" means a business or  
 40 commercial enterprise that, as one (1) of its principal  
 41 purposes, purports to offer, for any form of consideration,  
 42 physical contact in the form of lap dancing, wrestling, or



tumbling between two (2) or more persons when one (1) or more of the persons is seminude.

**Sec. 2. (a)** A person who employs or permits the employment of a person less than twenty-one (21) years of age on the premises of an adult oriented business commits a Class A infraction. An operator of an adult oriented business shall keep a photocopy of the:

(1) driver's license;

(2) state identification card; or

(3) other government issued identification card that contains a photograph and date of birth;

of every employee who works on the premises of the adult oriented business.

**(b)** A person who knowingly, intentionally, or recklessly employs or permits the employment of a person less than twenty-one (21) years of age on the premises of an adult oriented business commits a Level 6 felony.

**Sec. 3.** An operator of an adult oriented business commits a Class B infraction if an employee of the adult oriented business is intoxicated or under the influence of an unlawfully consumed controlled substance while on the premises of the adult oriented business.

**Sec. 4.** Any premises, building, dwelling, or other structure in which an adult oriented business is repeatedly operated or maintained in violation of this chapter constitutes an indecent nuisance and is subject to abatement in accordance with IC 32-30-7. This section does not prohibit the state from employing any other remedy available to prevent or remedy a violation of this chapter.

**Sec. 5. (a)** This chapter does not preempt or otherwise prevent a political subdivision from maintaining, enacting, or enforcing any local ordinance, rule, regulation, resolution, or similar law concerning the regulation of adult oriented businesses or similar adult oriented businesses that is stricter than but not inconsistent with this chapter.

**(b)** A political subdivision may maintain, enact, and enforce a local ordinance, rule, regulation, resolution, or other similar law concerning the regulation of adult oriented businesses or similar adult oriented businesses that is the same as or stricter than but not inconsistent with this chapter.

SECTION 2. IC 32-30-7-1, AS AMENDED BY P.L.158-2013, SECTION 333, IS AMENDED TO READ AS FOLLOWS



[EFFECTIVE JULY 1, 2014]: Sec. 1. As used in this chapter, "indecent nuisance" means: ~~a~~:

(1) **a place in or upon which prostitution (as described in IC 35-45-4) is conducted, permitted, or continued or exists;**

(2) **a public place in or upon which other sexual conduct (as defined in IC 35-31.5-2-221.5) or sexual intercourse (as defined in IC 35-31.5-2-302) is conducted, permitted, or continued or exists; or**

(3) **a public place in or upon which the fondling of the genitals of a person is conducted, permitted, or continued or exists; or**

**(4) an adult oriented business (as defined in IC 24-4-20-1) that is repeatedly operated or maintained in violation of IC 24-4-20;**

~~is conducted, permitted, continued, or exists;~~ and the personal property and contents used in conducting and maintaining the place for ~~such a~~ **the purpose described in this section.**

SECTION 3. IC 35-45-4-3, AS AMENDED BY P.L.158-2013, SECTION 527, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. A person who knowingly or intentionally pays, or offers or agrees to pay, money or other property to another person:

(1) for having engaged in, or on the understanding that the other person will engage in, sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5) with the person or with any other person; or

(2) for having fondled, or on the understanding that the other person will fondle, the genitals of the person or any other person; commits patronizing a prostitute, a Class A misdemeanor. However, the offense is a Level 6 felony if the **offense is committed on the premises of an adult oriented business (as defined in IC 24-4-20-1) or if the person has two (2) prior unrelated convictions under this section.**

SECTION 4. IC 35-51-24-1, AS AMENDED BY P.L.222-2013, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. The following statutes define crimes in IC 24:

IC 24-1-1-3 (Concerning combinations in restraint of trade).

IC 24-1-2-1 (Concerning combinations in restraint of trade).

IC 24-1-2-2 (Concerning combinations in restraint of trade).

IC 24-1-2-3 (Concerning combinations in restraint of trade).

IC 24-1-3-1 (Concerning combinations in restraint of trade).

IC 24-1-4-3 (Concerning combinations in restraint of trade).

IC 24-2-2-3 (Concerning trademarks, trade names, and trade



- 1 secrets).
- 2 IC 24-3-4-15 (Concerning regulated prices).
- 3 IC 24-3-4-16 (Concerning regulated prices).
- 4 IC 24-3-4-17 (Concerning regulated prices).
- 5 IC 24-3-5.4-24 (Concerning regulated prices).
- 6 IC 24-4-1-1 (Concerning regulated businesses).
- 7 IC 24-4-3-5 (Concerning regulated businesses).
- 8 IC 24-4-4-5 (Concerning regulated businesses).
- 9 IC 24-4-6-1 (Concerning regulated businesses).
- 10 IC 24-4-11-11 (Concerning regulated businesses).
- 11 IC 24-4-12-11 (Concerning regulated businesses).
- 12 IC 24-4-13-6 (Concerning regulated businesses).
- 13 IC 24-4-19-21 (Concerning regulated businesses).
- 14 **IC 24-4-20-2 (Concerning adult oriented businesses).**
- 15 IC 24-16.4-4 (Concerning regulated businesses).
- 16 IC 24-4.5-5-301 (Concerning Uniform Consumer Credit Code).
- 17 IC 24-4.5-5-302 (Concerning Uniform Consumer Credit Code).
- 18 IC 24-4.6-3-4 (Concerning unauthorized solicitation of money
- 19 using the name of a public safety agency).
- 20 IC 24-5-8-19 (Concerning consumer sales).
- 21 IC 24-5-12-22 (Concerning consumer sales).
- 22 IC 24-5-12-25 (Concerning consumer sales).
- 23 IC 24-5-14-10 (Concerning consumer sales).
- 24 IC 24-5-14.5-11 (Concerning false or misleading caller
- 25 identification).
- 26 IC 24-5-16-16 (Concerning consumer sales).
- 27 IC 24-5-23.5-9 (Concerning consumer sales).
- 28 IC 24-5.5-6-1 (Concerning mortgage rescue protection fraud).
- 29 IC 24-6-1-1 (Concerning standard weights and measures).
- 30 IC 24-6-3-15 (Concerning standard weights and measures).
- 31 IC 24-6-6-11 (Concerning standard weights and measures).
- 32 IC 24-7-9-1 (Concerning retail purchase agreements).
- 33 IC 24-7-9-2 (Concerning retail purchase agreements).
- 34 IC 24-7-9-3 (Concerning retail purchase agreements).
- 35 IC 24-8-6-1 (Concerning promotional gifts and contests).
- 36 IC 24-9-8-1 (Concerning home loan practices).

